

REMARKS

The Applicants thank the Examiner for the thorough consideration given the present application. Claims 1-11 are pending, each of which is amended. Claim 1 is independent. The Examiner is respectfully requested to reconsider the rejections in view of the amendments and remarks set forth herein.

Examiner Interview

If, during further examination of the present application, any further discussion with the Applicants' Representative would advance the prosecution of the present application, the Examiner is encouraged to contact Carl T. Thomsen, at 1-703-208-4030 (direct line) at her convenience.

Drawings

The Examiner has not indicated whether or not the drawings have been accepted. Clarification is requested in the next official communication.

Claim for Priority

It is gratefully appreciated that the Examiner has acknowledged the Applicants' claim for foreign priority based on German Patent Application No. 10 2004 009 210.9 filed on February 25, 2004.

Information Disclosure Citation

The Applicants thank the Examiner for considering the reference supplied with the Information Disclosure Statement filed October 2, 2008, and for providing the Applicants with an initialed copy of the PTO/SB/08 form filed therewith. (An English translation of CH 213-343-A dated 01-31-41 (to Arnold Benoit-Nicolet), which was not considered by the Examiner, will be submitted in due course.)

Rejections Under 35 U.S.C. §103(a)

Claims 1-11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Minogue et al. (U.S. 2002/0128686) in view of Bray (U.S. 6,520,893).

This rejection is respectfully traversed.

Amendments to Independent Claim 1

While not conceding the appropriateness of the Examiner's rejection, but merely to advance prosecution of the present application, independent claim 1 has been amended herein to recite a combination of elements directed to an elastic bandage, including *inter alia*

“wherein the electrodes are located on an inner side of an elastic region of the bandage,

wherein an outer side of the electrodes is covered by a pocket which is far less elastic than an elasticity of the bandage, and

wherein an area of the electrodes includes superimposed layers consisting of the electrodes on an inner side of the bandage, the elastic region of the bandage, and the pocket on an outer side of the bandage, and

wherein the pocket includes a resilient cushion.”

On page 3 of the Office Action, the Examiner concedes that the Minogue et al. document fails “to teach that the pocket of resilient foam is less elastic than the bandage or that the resilient cushion consists of an inflatable tube.”

The Examiner then asserts that secondary reference (Bray) makes up for the deficiency of Minogue et al.

The Applicants respectfully disagree.

The Bray document fails to disclose electrodes. Bray merely shows a bandage with a pocket for an inflatable air chamber 32 which has a shape of a round pipe with a certain length. The Examiner appears to consider this pipe as a cushion, which however with regard to its shape could not be used in connection as a cushion for some electrodes, as shown in Minogue et al. Bray gives the reader of the reference in no way a hint to use its disclosure for any improvement or connection to the bandage according to Minogue et al. If however these two references would be combined then the pipe like cushion according to Bray would make no sense in connection with the bandage according to Minogue et al.

At least for the reasons explained above, the Applicants respectfully submit that the combination of elements as set forth in independent claim 1 is not disclosed or made obvious by the prior art of record, including Minogue et al. and Bray.

Therefore, independent claim 1 is in condition for allowance.

Dependent Claims

The Examiner will note that dependent claims 2-11 have been amended to place them in better form.

All dependent claims are in condition for allowance due to their dependency from allowable independent claims, or due to the additional novel features set forth therein.

All pending claims are in condition for allowance.

Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. §103(a) are respectfully requested.

CONCLUSION

Since the remaining patents cited by the Examiner have not been utilized to reject claims, but merely to show the state of the art, no comment need be made with respect thereto.

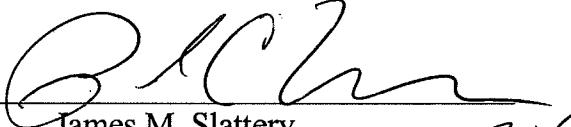
All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. It is believed that a full and complete response has been made to the outstanding Office Action, and that the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, she is invited to telephone Carl T. Thomsen (Reg. No. 50,786) at (703) 208-4030(direct line).

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

Date: February 19, 2009

By 
James M. Slattery
Reg. No. 28,380
#43,368
f64

BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road, Suite 100E
P. O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000

JMS:CTT:ktp 